

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA**

<div style="display: flex; justify-content: space-between;"><div style="width: 80%;">KOCH FOODS OF ALABAMA, LLC, an Alabama limited liability company</div><div style="width: 10%; text-align: center;">)</div></div> <div style="display: flex; justify-content: space-between;"><div style="width: 80%;">Plaintiff and Counterclaim-defendant,</div><div style="width: 10%; text-align: center;">)</div></div> <div style="display: flex; justify-content: space-between;"><div style="width: 80%;">v.</div><div style="width: 10%; text-align: center;">)</div></div> <div style="display: flex; justify-content: space-between;"><div style="width: 80%;">GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware corporation,</div><div style="width: 10%; text-align: center;">)</div></div> <div style="display: flex; justify-content: space-between;"><div style="width: 80%;">Defendant and Counterclaim-plaintiff.</div><div style="width: 10%; text-align: center;">)</div></div>	)	Case No. 07-cv-522-MHT  Honorable Myron H. Thompson Honorable Terry F. Moorer
--	---	--

**KOCH FOODS' NOTICE OF STATUS**

Plaintiff and Counterclaim Defendant, Koch Foods of Alabama, LLC ("Koch"), through its undersigned counsel, files this Notice of Status informing the Court of the status of the parties' compliance with certain pretrial orders. Koch respectfully states as follows:

1. After the Court conducted a hearing on December 17, 2007, the Court entered two pretrial orders (Docs. 57 and 58). These two orders direct that (i) the deposition of Jim Hanley shall be held in Danbury, Connecticut, and shall be limited to two hours; (ii) the depositions of William Wilson and Joe DiSalvo, previously scheduled for 12/17/2007, shall be rescheduled and, further, shall take place in Danbury by 12/31/07; and (iii) the deposition of Michael Leonard shall proceed by telephone on or before 12/31/2007.

2. The depositions of Jim Hanley and Joe DiSalvo were taken on December 20 in Danbury, Connecticut. The parties have agreed that William Wilson's deposition will be held at Schiff Hardin LLP's Chicago office on December 27, 2007.

3. Mr. Leonard's deposition was going to be scheduled for the morning of Wednesday, December 19, but he later called on December 18 – shortly after the parties had

scheduled the Hanley and DiSalvo depositions to begin at 9:00 a.m. on December 20 in Connecticut -- to inform Mr. Geekie that he was not available in the morning of December 19 for his deposition because he had a meeting with a customer. Although he stated that he might be available the afternoon of December 19, he did not have a firm time. Mr. Leonard further informed Mr. Geekie that he was having surgery on Thursday, December 20 and would therefore not be available for deposition until January 2, 2008.

4. Mr. Geekie informed Mr. Leonard that he would be leaving for Connecticut around 12:00 noon on December 19, so he would not be available to depose Mr. Leonard if he became available later that day, so the parties would need to depose Mr. Leonard on or after January 2, 2008. Mr. Leonard agreed to that.

5. Mr. Geekie then promptly notified counsel for GECC of Mr. Leonard's situation, that Mr. Leonard's deposition would not occur on December 19, and that Mr. Leonard's deposition would need to occur on or after January 2 (see attached email). Although counsel for GECC stated in subsequent emails that they were willing to proceed with Mr. Leonard's deposition in the afternoon of December 19, they never objected to the continuance of Mr. Leonard's deposition on or after January 2.

6. Based on the Court's comments during the December 17 hearing, Koch understands that Mr. Leonard's deposition can be held after 12/31/07 by the parties' agreement.

7. Counsel for Koch is unaware of any remaining discovery other than the depositions of Mr. Wilson and Mr. Leonard.

Dated: December 21, 2007

Respectfully submitted,

/s/ Zhiyuan Xu

Zhiyuan Xu

OF COUNSEL

Thomas G. Mancuso

Mancuso & Franco, P.C.

7515 Halcyon Summit Drive, Suite 301

Montgomery, Alabama 36117

(334)481-1800

OF COUNSEL

Eugene J. Geekie, Jr.

Zhiyuan "Mike" Xu

Schiff Hardin LLP

6600 Sears Tower

Chicago, Illinois 60606

(312) 258-5500

(312) 258-5600 (Fax)

egeekie@schiffhardin.com

[mxu@schiffhardin.com](mailto:mxu@schiffhardin.com)

Counsel for Koch Foods of Alabama, LLC

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that copies of the forgoing were caused to be served upon counsel of record addressed as follows by the ECF system on this 21st day December, 2007.

Alexander Terras  
Timothy Scott Harris  
Reed Smith Sachnoff & Weaver  
10 South Wacker Drive  
Chicago, IL 60606  
312-207-1000  
Fax: 312-207-6400  
[tharris@reedsmith.com](mailto:tharris@reedsmith.com)  
aterras@reedsmith.com

Rusha Christina Smith  
Bradley Arant Rose & White LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, AL 35203-2104  
205-521-8010  
Fax: 205-488-6010  
Email: rsmith@bradleyarant.com

\_\_\_\_\_  
/s/ Zhiyuan Xu  
Zhiyuan Xu

CH2\2243080.1

**Xu, Mike Z.**

---

**From:** Geekie Jr., Eugene J.  
**Sent:** Tuesday, December 18, 2007 3:00 PM  
**To:** Pille, Ann E.; 'Harris, Timothy S.'  
**Cc:** tgm@hsy.com; Xu, Mike Z.  
**Subject:** Leonard

Ann and Tim: I just spoke to Mike Leonard. He is not available tomorrow morning for his deposition because he has a meeting with a customer. He isn't sure when or if he'll be available in the afternoon, but the time he thought he might be available is too late in the afternoon, for me to depose him because I have to catch a plane so that I am in CT and available to begin Hanley's dep at 9:00 a.m. Thursday. As I informed you earlier today, Mr. Leonard is having surgery on Thursday and will not be available for deposition until January 2.

Based on Judge Moorer's comments yesterday, I understand that we can mutually agree to take Mr. Leonard's deposition after the first of the year, which I propose to do. Please let me know if you concur.

Eugene J. Geekie, Jr.  
Schiff Hardin LLP  
7500 Sears Tower  
Chicago, IL 60606  
312-258-5635 (direct)  
312-258-5600 (fax)

12/21/2007